

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO  
RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,  
*et al.*,

Debtors.<sup>1</sup>

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**STATUS REPORT OF THE PUERTO RICO FISCAL AGENCY AND FINANCIAL  
ADVISORY AUTHORITY REGARDING THE GOVERNMENT OF PUERTO RICO'S  
RECENT ACTIVITIES IN RESPONSE TO THE ONGOING COVID-19 PANDEMIC**

To the Honorable United States District Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF"), through its undersigned counsel, hereby submits this status report on behalf of the Government of the Commonwealth of Puerto Rico (the "Government") in response to the Court's Order Regarding Procedures for June 3, 2020, Omnibus Hearing [ECF No. 13220] and states as follows:

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<sup>1</sup> The Debtors in these Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566(LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), and (iv) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801).

## PRELIMINARY STATEMENT

Puerto Rico, along with the rest of the world, continues to face the unprecedented challenge and impact caused by the outbreak of COVID-19. Cases of COVID-19 continue to be reported worldwide. As of June 2, 2020, there have been more than 6.1 million confirmed COVID-19 cases globally and over 373,000 people have died. The United States alone has reported over 1.7 Million COVID-19 cases, including more than 104,000 deaths. Of this amount, Puerto Rico has reported 3,935 confirmed cases and 138 deaths.

As part of AAFAF's *Status Report of the Puerto Rico Fiscal Agency and Financial Advisory Authority Regarding the Government of Puerto Rico's Recent Activities in Response to the Ongoing Covid-19 Pandemic* [ECF No. 12921] (the "April Status Report")<sup>2</sup>, AAFAF detailed the Government's response and measures taken in relation to the ongoing COVID-19 pandemic. AAFAF will focus this report on material changes since April 21, 2020 relating to the Government's response.

Since the April Status Report, the Government's top priority continues to be addressing the significant challenge in safeguarding public health and safety, ensuring the provision of public services (including health services, rising unemployment and economic distress), and coordinating rehabilitative economic measures. The Government has implemented measured approaches to start reopening business sectors and improve economic conditions, issuing, since the April Status Report, two executive orders (detailed below) that allow for a careful and staggered reopening of certain business sectors, following strict guidelines aimed at diminishing the risk of the spread of the virus.

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<sup>2</sup> Capitalized terms used but not otherwise defined herein, shall have the meanings ascribed to them in the April Status Report [ECF No. 12921].

The Government also continues addressing the negative economic effects of COVID-19. The Government has made significant improvements in testing and tracing of COVID-19 cases, conducting, as of June 2, 2020 over 100,000 molecular and serological tests. Although Puerto Rico is not currently experiencing a surge of COVID-19 cases and is not facing a shortage of ventilators (as of June 2, 2020, the number of ventilators in use was 297 out of a total of 1,320), the Government continues to actively focus on curtailing the spread of the virus, because a breakout of COVID-19 would wreak havoc on Puerto Rico's fragile health system and impact the efforts to reopen businesses. The Government continues to disburse funding under its Emergency Measure Support Package and, as of May 29, 2020, had disbursed \$322 million. As detailed below, the Commonwealth has instituted a Strategic Disbursement Plan to disburse over \$2.2 Billion in federal funding to address the economic impact of COVID-19.

Although the full extent of the financial and economic impact of COVID-19 on Puerto Rico remains uncertain, it is clear the Government faces a significant challenge. The negative economic impact of the pandemic has affected virtually all areas of Puerto Rico's economy. Government revenue collections continue to be adversely affected by reductions in overall economic activity as a result of mobility restrictions and business closures due to the safety measures enacted by the Government, and delays in the receipt of income taxes as a result of the postponement of income tax return filing dates. AAFAF has recently projected that the Commonwealth may lose over \$1.8 billion in tax revenue due to a combination of reduced economic activity and delays or postponements of tax payments during the remaining four months of the current fiscal year ending June 30, 2020.<sup>3</sup> Addressing this economic, social and health challenge is the Government's top priority. To this end, as detailed below, the Government

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<sup>3</sup> See e.g., page 12 at <http://www.aafaf.pr.gov/assets/aafaf-2020-fiscal-plan-pres-05-27-20.pdf>.

continues to take aggressive measures to combat the virus, protect the people of Puerto Rico, and address the economic impact of the virus.

**I. The Governor's Executive Orders – Path to Reopen Businesses and the Economy**

1. As detailed in the April Status Report [ECF No. 12921], Governor Wanda Vázquez Garced (the “Governor”) issued a series of executive orders that directed the closure of certain business and government agencies and imposed a mandatory curfew to protect the health, safety, and welfare of the people of Puerto Rico. The executive orders proved effective as the Government has been able to contain the spread of COVID-19.

2. Over the past two months, the Medical Task Force and Economic Task Force created by the Governor have been working diligently in developing and evaluating strategies aimed at resuming economic activity in Puerto Rico while safeguarding the health of Puerto Rico's population. To that end, the Economic Task Force recommended the Governor to reactivate Puerto Rico's economy in phases, without overloading the capacity of Puerto Rico's medical sector, including hospitals, to manage the COVID- 19 pandemic. In order to evaluate the sectors to be included in the gradual reopening, the Economic Task Force took three factors into consideration: (1) an Infection Risk Index prepared by the School of Public Health of the University of Puerto Rico's Medical Sciences Campus; (2) the number of employees in each sector; and (3) the participation of each sector in Puerto Rico's Gross Domestic Product.

**A. First Phase of Plan to Reopen**

3. Following the recommendations of the Economic Task Force, as the first phase of Puerto Rico's plan to reopen businesses, on May 1, 2020, the Governor signed Executive Order 2020-038 (“Executive Order 38”), which extended the shelter-in-place order until May 25, 2020, seeking to further control the risk of contagion and slow the spread of the COVID-19 on the island.

The mandatory curfew was extended to require all Puerto Rico residents to remain in their homes between 7 p.m. and 5 a.m. However, Executive Order 38 eased certain restrictions imposed by previous executive orders and allowed certain commercial activities and services that had been closed or prohibited since March 15, 2020. Among other things, it allowed the following services to be rendered Monday through Friday between 9:00 a.m. and 5:00 p.m., by appointment only, without opening to the public and respecting social distance norms:

- Financial institutions;
- Legal services, accounting firms, and other similar professional services;
- Telecommunication services - to repair, deliver, or replace equipment for landline, cellphone, internet, cable or TV services;
- Auto shops, vehicle inspection centers, laundries, roadside assistance and locksmith service; and
- Service providers such as plumbers; electricians; people who repair household appliances, landscape and security services; pest control services; pool cleaning services; and other services that are necessary to maintain health, safety, and essential operations at an individual, residential, commercial, industrial, or public level.

4. In addition, effective May 11, 2020, construction and manufacturing activities were allowed, subject to the implementation of strict safety measures to safeguard the health and safety of personnel, and based on the Guidelines from the Centers for Disease Control and Prevention (CDC), the Occupational Safety and Health Administration (“OSHA”), and the U.S. Department of Labor.

5. To ensure measures to curtail the risk of infection, all private sector employers were required to prepare and submit to the Puerto Rico Department of Labor and Human Resources (the “Department of Labor”) a COVID 19 Exposure Control Plan to manage the risk of employee contagion based on OSHA’s Occupational Health and Safety Guidance No. 3990, published in March 2020 and adopted by the Puerto Rico Occupational Safety and Health Administration

(PROSHA) of the Department of Labor. Employers have to certify they have complied with this mandate before resuming operations.

**B. Second Phase of Plan to Reopen**

6. As part of the Government's second phase to restart Puerto Rico's economy, on May 26, 2020, the Governor signed Executive Order 2020-041 ("Executive Order 41"), which further extended the mandatory curfew until June 15, 2020 but expanded the list of commercial activities that were allowed under Executive Order 38. With respect to Government operations, Executive Order 41 provides that some agencies should continue their functions and provide any services that may be offered without compromising the health and safety of employees remotely. Due to the nature of certain agencies' services, up to five employees may physically work from the respective office twice a week. In order to prepare for the gradual reopening of agencies, human resources, finance, budget, and procurement personnel were directed to report to their respective offices on June 1, 2020. Among the new commercial and business activities Executive Order 43 authorizes are the following:

- Restaurants may receive customers by reservation only without exceeding 25% of their maximum capacity, as defined in Puerto Rico's Building Code of 2018.
- After May 26, 2020, retail establishments were allowed to open to train employees and tenants to receive the public. Effective June 8, 2020, retail establishments can open to the public without exceeding 50% of their maximum capacity, as defined in Puerto Rico's Building Code of 2018.
- Automobile dealerships may operate without exceeding 50% of their maximum capacity, as defined in Puerto Rico's Building Code of 2018.
- Beauty salons and barber shops may reopen by appointment only.
- Universities and private schools may open to offer virtual classes from their facilities. Students may not attend campuses or school grounds.

7. The private sector businesses authorized to open were ordered to incorporate measures to mitigate the risk of transmission of the COVID-19 in their facilities, including

disinfecting the works stations, providing on-site mechanisms for employees and visitors to disinfect their hands, and ensuring social distance outside and inside the establishment.

## **II. Update on Funding Related to COVID-19**

### **A. Federal Funding Under Coronavirus Relief Fund**

8. As part of the measures to manage the emergency caused by the COVID-19 pandemic, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). As detailed in the April Status Report, the CARES Act contains multiple sources of aid for individuals, businesses, as well as for state and territorial governments. Among the measures included in the CARES Act is the creation of the Coronavirus Relief Fund (“CRF”), which was funded with an allocation of \$150 billion. With respect to territories, the CARES Act separates \$3 billion to be distributed among United States territories based on their proportion of population. The United States Treasury Department determined that Puerto Rico would be entitled to \$2.2 billion of CRF funds. On April 20, 2020, the United States Treasury Department transferred the \$2.2 billion to the Government. These funds are segregated in a bank account in a private financial institution, under the custody of the Department of Treasury of Puerto Rico.

9. Under the CARES Act, the CRF funds to be distributed are subject to three restrictions: (1) the funds must be used for necessary expenses incurred as part of the emergency caused by COVID-19; (2) the expenses covered by said funds must not have been previously budgeted as of March 27, 2020, the date on which the CARES Act was enacted; and (3) the expenditures must be incurred between March 1, 2020, and December 30, 2020. *See* 42 U.S.C.A. § 801. In addition to these statutory requirements, the United States Treasury Department issued guidelines that interpreted these limitations and established additional parameters for the

disbursement of these funds, such as that the CRF funds cannot be used to cover loss of revenue of government entities.

10. On May 15, 2020, the Governor signed Executive Order 2020-040 which adopted a Strategic Disbursement Plan (the “Strategic Disbursement Plan”) for the \$2.2 billion from the CRF funds allocated to Puerto Rico through the CARES Act. The Strategic Disbursement Plan establishes a process and use of funds aimed to place the funds into the hands of the individuals and sectors that need it the most, while complying with the federal regulations. To that end, the Strategic Disbursement Plan created the Disbursement Oversight Committee (“Committee”) to monitor the processing of CRF disbursements while ensuring adherence with the strict statutory standards of the CARES Act and the guidelines issued by United States Treasury Department. The Committee is composed of the Executive Director and Chairman of AAFAF, the Secretary of the Puerto Rico Department of the Treasury, and the Director of the Office of Management and Budget (“OGP”).

11. The Strategic Plan<sup>4</sup> establishes the following broad allocation of funds: \$965 million for private sector uses, \$500 million for COVID-19 health related expenses, \$290 million for government related expenses and \$485 million as a reserve and future programs.

12. As part of the Government’s commitment to transparency, the Strategic Plan requires the Committee to publish on AAFAF’s website periodic reports, with a frequency not less than every two weeks, of the use and disbursement of CRF funds. In compliance with this mandate, AAFAF has published a Disbursement Plan Funding Report with the CRF disbursement breakdown by category on its website.<sup>5</sup>

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<sup>4</sup> A copy of the Strategic Plan can be found at: <http://www.aafaf.pr.gov/assets/strategic-disbursement-plan-crf.pdf>.

<sup>5</sup> See <http://www.aafaf.pr.gov/covid-19-resource-center.html#emergency-funds>.



**B. Update on Disbursements Under the Emergency Measure Support Package**

13. With regards to the COVID-19 Emergency Measure Support Package detailed in the April Status Report, as of May 29, 2020, the Government had disbursed \$322 million dollars out of the \$787 million approved in the package. AAFAF has published a report detailing the use of these funds and the disbursements made as of May 29, 2020, and the report is available at <http://www.aafaf.pr.gov/covid-19-resource-center.html#emergency-funds>.

**III. Additional Specific Efforts to Combat the COVID-19 Pandemic<sup>6</sup>**

**A. Department of Health**

14. The Department of Health continues to focus its efforts on tracking and combating the COVID-19 crisis. The Department of Health maintains a “dashboard”, through which it provides daily updates on the COVID-19 crisis.<sup>7</sup> As of June 2, 2020:

- Puerto Rico had 3,935 confirmed cases and 138 deaths.
- Over 100,000 serological and molecular COVID-19 tests have been performed.
- 1,320 ventilators are in stock and available to be used in Puerto Rico, of which 297 are in use at this time. Of these, 168 are pediatric ventilators.
- 3,417 adult beds and 1055 pediatric beds are currently vacant out of a total 6,914 and 1,390 hospital beds, respectively.

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<sup>6</sup> The data and information provided herein has been obtained by AAFAF directly from the Department of Health and the Department of Labor and Employment.

<sup>7</sup> See <https://bioseguridad.maps.arcgis.com/apps/opsdashboard/index.html#/d7308c1abb4747e584329adf1215125e>.

**B. Department of Labor and Unemployment Claims**

15. As a result of the COVID-19 pandemic, and like most of the states in the mainland, unemployment has increased dramatically in Puerto Rico as many businesses have been forced to shut down or lay off employees. As of May 16, 2020, total unemployment claims in Puerto Rico exceeded 275,000. The unprecedented number of unemployment claims has presented challenges to process applications. However, the Government has taken measures to handle the increased number of applications as quickly and efficiently as possible.

16. As a result of these measures, as of May 27, 2020, the Department of Labor had disbursed approximately \$727 million in unemployment benefits to more than 210,000 affected workers since April 1, 2020. Of this amount, \$132 million corresponds to local unemployment insurance benefit payments, while \$437 million has been disbursed in federal supplemental aid. As of May 22, 2020, 160,707 affected workers were receiving regular unemployment insurance benefits. With respect to the PUA program, since it entered into effect on April 28, more than \$157 million has been disbursed. That figure is broken down, into \$20.6 million corresponding to weekly benefit payments from the PUA program, while \$136.4 million corresponds to the \$600 weekly supplementary aid.

**IV. Other AAFAF Activities**

**A. Continued Natural Disaster Relief Efforts<sup>8</sup>**

17. In addition to the COVID-19 crisis, the Government continues to coordinate relief and funding efforts to address the natural disasters that have affected Puerto Rico in recent years, including the continued recovery following Hurricanes Irma and Maria and the earthquakes that

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<sup>8</sup> The data and information provided herein has been obtained by AAFAF directly from the Central Office of Recovery, Reconstruction and Resiliency (COR3).

impacted (and continue to impact) the southern and southwestern part of Puerto Rico. Since AAFAF's April Status Report, AAFAF has the following new updates to report:

- Approximately 1,335 projects were approved by FEMA, representing \$722.5 million in funds for recovery and permanent work related to Hurricane María. These projects will address damage caused by Hurricane María to municipal buildings, hospitals, universities, roads, bridges, and water facilities.
- On May 7, 2020, the Governor announced that the United States Department of Housing and Urban Development authorized the use of an additional \$1.7 billion in Community Development Block Grant-Disaster Relief, or CDBG-DR funds.

**B. Petition for a *Writ of Certiorari* in the Supreme Court of the United States Regarding the First Circuit's Decision in *Vázquez-Garced v. The Financial Oversight and Management Board for Puerto Rico*, 945 F.3d 3 (1st Cir. 2019)**

18. On December 18, 2019, the United States Court of Appeals for the First Circuit issued its opinion affirming this Court's August 7, 2018 order to dismiss certain of the Governor and AAFAF's claims regarding the scope of the Board's powers related to substantive policy recommendations under PROMESA section 205 and budgetary reprogramming under PROMESA section 204(c).

19. On May 15, 2020, the Governor and AAFAF sought an appeal of the First Circuit's decision by filing a petition for a *writ of certiorari* in the United States Supreme Court under Case No. 19-1305. The petition submits two questions for appeal: (i) whether the Oversight Board may preemptively override the elected Government's ability to request reprogramming of funds under PROMESA section 204(c) via a blanket ban inserted into an Oversight Board-certified budget under PROMESA section 202; and (ii) whether the Oversight Board may, by including in its certified fiscal plan a provision that suspends all reprogramming and prohibits any request from Puerto Rico's elected Government for Oversight Board authorization of reprogramming under PROMESA section 204(c), impose through the fiscal plan a policy recommendation that the

Governor previously rejected under PROMESA section 205. The Oversight Board's response to the *writ of certiorari* is due on July 20, 2020.

**C. Discussions Regarding Act 29 Alternatives**

20. On April 15, 2020, the Court entered its Opinion and Order in the adversary proceeding styled *The Financial Oversight and Management Board for Puerto Rico v. Vázquez-Garced*, Adv. Pro. No. 19-00393-LTS [ECF No. 107], granting in part the Board's motion for summary judgment seeking, among other things, to nullify Act 29.

21. As noted in the Government's informative motion filed on May 6, 2020 [Adv. Pro. No. 19-00393-LTS; ECF No. 109], the Court delayed the effective date of its order through May 6, 2020 to allow the Board, the municipalities, and AAFAF to work collaboratively to resolve the immediate fiscal implications of Act 29's nullification, including the repayment of municipal PayGo Charges and ASES contributions for fiscal year 2020 and the development of a long-term alternative to Act 29. On May 6, 2020, the Municipal Revenue Collection Center ("CRIM," for its Spanish acronym) "agreed to accept" the Oversight Board's proposed option to distribute a \$132 million municipal transfer appropriated in the FY 2020 Certified Budget as an offset for repaying the fiscal year 2020 municipal PayGo Charges and ASES contribution, which, according to the Oversight Board, total approximately \$198 million.

The Governor and AAFAF remain committed to finding a long-term, permanent, and holistic solution to the financial strain on the Commonwealth's municipalities caused by the nullification of Act 29.

(signature page follows)

Dated: June 2, 2020  
San Juan, Puerto Rico

Respectfully submitted,

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